

MINUTES OF A REGULAR VOTING MEETING OF THE

FAIRFIELD PLANNING COMMISSION

March 27, 2013

Scott Lepsky, Chairman, called the Regular Meeting of the Fairfield Planning Commission to order.

Members present: Scott Lepsky, Don Hassler, Jeff Holtegel, Bob Myron, Tom Hasselbeck, Bill Woeste and Mark Morris.

MINUTES OF THE PREVIOUS MEETING:

The minutes of the previous meeting, held March 13, 2013, were approved as submitted.

OLD BUSINESS:

Proposed Amendments to the Fairfield Codified Ordinances

Jeff Holtegel, seconded by Don Hassler, made a motion to remove from the table the proposed amendments to the Fairfield Codified Ordinances. Motion carried unanimously.

Mr. Bachman stated the comments suggested at the last meeting have been incorporated into the draft handout given to the Commissioners. The new comments are indicated in red. Under Section 1143.06(a), all changes will now read "The exterior surface of an accessory building or structure, if greater than 100 square feet, shall not be made of metal, resin, plastic or non-finished composite material". The Board of Zoning appeals wanted a limit set for these materials and this amendment accomplishes their request.

Section 1143.06(g) is new and limits the height of accessory structures so that they cannot exceed the height of the principal structure. At the last meeting, the Commission requested that property zoned A-1 and is two acres or greater be exempt from the height limitation; language was added to address that.

Section 1187.02(a) defines the definition of a sign. After much discussion, it was decided to leave "or of any education, charitable, philanthropic, civic, professional, religious organizations or like campaign, drive, movement or event" in the ordinance. Under the definition, these will not be considered signs. Mr. Clemmons stated he still has concerns and at some point, the ordinance will need to be modified to address some of this. Also under this section, directional signs, including signs for identification and location of entryways and public facilities and events and geographic areas of the City was added and also will not be considered signs. Section 1187.02(a)(1.1) was added and defines "Air Dancer" as requested from the previous meeting. Section 1187.02(a)(13.1) is an addition and defines "Feather/Flutter Flags" which are then added to 1187.02(a)(31) as permitted temporary signage.

Mr. Bachman stated there was discussion regarding the need to change the definitions of a motor vehicle service station and fuel dispensing facility. This came about during the Kroger review.

Definitions 63 and 63.1 have been modified. Section 1133.01(63) has been changed to read “Motor vehicle service facility” means a place where automobile service including removal and replacement of motor lubricants, tires, batteries, accessories and supplies, for operating and equipping motor vehicles are performed for the public.” Mr. Clemmons suggested it be changed to read “Motor vehicle service facility” means a place where automobile service including removal and replacement of lubricants, tires, batteries, accessories or supplies, for operating or equipping motor vehicles are performed for the public.” Businesses that would fall under this definition would include oil change, car stereo installation, etc.

Definition 63.1 has be modified to read “Motor vehicle fuel dispensing facility” means a place where gasoline or other motor fuel is sold at retail to the public and deliveries are made directly into or onto motor vehicles and no other motor vehicle service is performed. The sale of gasoline or other motor vehicle fuel under this definition must be the primary use. Retail grocery and/or convenience store sales are permitted.” Mr. Lepsky asked if electric charging stations would be covered under the new definition. It was decided the definition should be revised to read “Motor vehicle fuel dispensing facility” means a place where gasoline or alternative fuel/power/energy is sold at retail to the public and deliveries are made directly into or onto motor vehicles and no other motor vehicle service is performed. The sale of gasoline or alternative fuel/power/energy under this definition must be the primary use. Retail grocery and/or convenience store sales are permitted.” Mr. Clemmons suggested leaving the vending machine language in the ordinance so it would read “Vending machines and outdoor retail displays do not constitute retail sales under this definition unless specifically approved by the Planning Commission”.

Section 1187.03(g) is being modified to allow air dancers as grand opening signage. Parameters have also been set regarding the placement of the air dancers. Per John Clemmons’ suggestion, Section 1187.03(h) is being changed to read “Portable Signs. No portable signs or air dancers shall be permitted except as provided in subsection (g) hereof.” Section 1187.03(i)(9) adds feather/flutter flags as permitted promotional signage.

Modifications to Section 1168.02 remove Motor Vehicle Service and Motor Vehicle Fuel Dispensing Facilities as permitted uses in the D-1 and D-1A. They are then added to Section 1168.03 as a Conditional Use. “Display, hire and sales subject to the provisions of Chapter 1189 is also being removed”. Chapters 1159 and 1189 have to be modified to change “service station” to “service facility”.

The modification to Section 1173.07 changes the fire lane width in the M-2 zone from 15’ to 20’ and gives the fire chief or his designee authority to require a fire lane.

Chapter 1199 is being changed to incorporate language mandated by the State regarding flood hazard areas. Staff did contact the State to make sure they were okay with adding that the maps and studies being adopted pertain to properties within the corporation limits of Fairfield.

The commission discussed the maximum garage size limit. Several of the Commissioners felt 500 s.f. was too small and should be increased. It was suggested that Mr. Lepsky, the Commission’s representative to the BZA, speak with other BZA members to get their opinion.

Mr. Clemmons handed out a sheet which discussed zoning code pitfalls and weaknesses in regard to signs. The sheet was a handout from a seminar he had attended.

- (a) Not content neutral, but rather based on the message of the sign, requiring a heightened scrutiny by the courts of the sign regulation. Mr. Clemmons said signs cannot be regulated by the message. There are some issues in that area that will need to be addressed in our sign ordinance.
- (b) Preferences given to commercial signs over political/opinion-related signs. Mr. Clemmons felt we are alright in this area given the fact that the ordinance regarding political signs was repealed a few years ago.
- (c) Durational limits on posting of political/opinion-related signs, either before or after an election or a particular event. The Supreme Court struck down limiting these signs.
- (d) Inadequate levels of political/opinion-related signage on private properties that do not permit an owner or resident to adequately express support of several candidates or causes. Mr. Clemmons said we have to permit a certain amount of these type signs. Some parameters need to be placed on them however.
- (e) Requiring a permit and/or fee for non-commercial, political/opinion-related signs. Can be seen as a “prior restraint” on First Amendment protected speech. Mr. Clemmons stated we need to define what we allow within broad parameters on political/opinion-related signs. They won’t be coming in for a building permit first and it may become an issue.
- (f) Preferences given to local government signage for a non-safety or traffic-related purpose over private party signage. Mr. Clemmons felt the city was fine given previous changes to the sign ordinance.
- (g) Sign regulation as to size, height, number, setbacks and other locational requirements that are not based upon factual studies related to visibility, speed limits on community streets, aesthetics concerns for neighborhoods and districts, etc. Mr. Clemmons felt the city was also fine in this area.

Mr. Clemmons said the concerns expressed by the Commission with deleting the “educational, charitable, philanthropic” exception signage will need to be addressed sometime in the future. There still could be a perception of discrimination based on the content of the message.

Jeff Holtegel, seconded by Scott Lepsky, made a motion to recommend approval of the proposed amendments to the Fairfield Codified Ordinances based on the changes in “Exhibit A” and the modifications discussed this evening.

Motion passed unanimously.

NEW BUSINESS:

Conditional Use Application – Used Car Sales – 3222 Dixie Highway

Slides were shown of the property. It is the most northern piece in the City on Dixie Highway. The building was being used as an auto repair and approval is now being sought for a used car lot. Mr. Pradeep Dhamija, applicant, stated he plans to purchase this building and the one in front of it. The

property is not in very good shape and he plans to clean it up. Additional slides were shown of the building. If approved, Mr. Bachman suggested conditions of approval would be to paint the west side of the building where paint is missing and peeling, remove the debris on the east side of the building and either repair or remove the wood privacy fence. Mr. Dhamija stated he planned to take care of the 3 items Mr. Bachman read. Also, the sale of the property is for the two parcels; going thru the front parcel is the only way to get from Dixie Highway to the back. The front building is occupied and car sales will only be conducted on the rear property. Cars will be parked inside the building and throughout the back parcel; no cars will be displayed on the front parcel. He plans on selling 20 – 30 cars, cash sales only. Signage was discussed and Mr. Dhamija stated he will do whatever the code allows. There is a bar on the front corner of the building and if allowed, he will display his sign there. Mr. Clemmons stated roof signs are prohibited. There is a ground sign on the property line which Ms. Donovan thought was on the Mi Hacienda property. Mr. Bachman stated Mr. Dhamija should see what the sign code permits and if relief is need, he can apply to the BZA for a variance.

The Commission expressed their concern with the exterior wood on the south side of the building. Mr. Dhamija stated he would like to replace the wood with a plastic material that comes in 4' x 8' sheets and resembles brick or stone. Another possibility is to remove the wood and repaint the building. Mr. Bachman stated he did not want to see metal and suggested the Commission add another condition where the signage and building material come back for approval.

Scott Lepsky, seconded by Jeff Holtegel, made a motion to approve the Conditional Use for used car sales at 3222 Dixie Highway with the following conditions:

1. The west side of the building will be repainted;
2. The debris on the east side of the building will be removed;
3. The fence on the east lot will be repaired or removed; and
4. The applicant will come back before the Planning Commission with plans for signage and exterior make-over of the building.

Motion carried 7 – 0.

Minor Modification to the Woodridge P.U.D.

Tim Bachman stated a day care is proposed in the office complex at 3840 Woodridge Boulevard. Slides were shown of the property, building and proposed outdoor play area. The state requires a certain amount of play area per child as part of the licensing. A slide was shown of the right of way along Woodridge Boulevard and the applicant was told the play area cannot locate in it. Ms. Angela O'Hara explained two play areas are proposed; one in front of the building and one on the side. Ms. O'Hara showed the Commission several other areas she was considering for the play areas. The Commission expressed concern with the locations due to the close proximity of other tenants, the lake and the road.

Mr. Bachman asked if the landlord had approved the outdoor play areas. Ms. O'Hara replied she has had a lot of contact with him regarding making the restrooms inside the space handicap accessible which he has already started on. The wall between her space and the church had fire rated drywall

installed and Ms. O'Hara had a sign placed outside advertising the day care. She was told zoning was fine so she pulled a permit for the sign. Plumbing needs to be installed but will not be done until she receives the Commission's approval. Ms. O'Hara was advised all work needs to stop until proper permits are obtained. Mr. Hassler suggested the application be tabled until further details are defined and a full plan can be presented. Mr. Clemmons said the State should also be contacted to make sure they will approve the location with the lake right next to it.

Don Hassler, seconded by Jeff Holtegel, made a motion to table the minor modification to the Woodridge P.U.D. pending the submission of further information.

Motion carried 7 – 0.

REPORTS/STUDIES/GENERAL DISCUSSION

Bob Myron reported the Parks Board has a new member, Mr. Rodney Spencer.

Mark Morris stated the school system is getting 30 new busses next year.

Jeff Holtegel congratulated Scott Lepsky and Don Hassler on their re-appointment to the Planning Commission.

Being no further business, the meeting adjourned.

Scott Lepsky, Chairman

Peggy Flaig, Clerk